

**Before the
Federal Communications Commission
Washington, D.C.**

In the matter of)	
)	
Interpretation of the Telephone Consumer)	CG Docket Number 18-152
Protection Act in light of the D.C. Circuit's)	
ACA International decision)	
)	
Rule and Regulations Implementing the)	CG Docket Number 02-278
Telephone Consumer Protection Act of 1991)	

COMMENTS BY JOHN A. SHAW

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Introduction

The following comments are in response to the Commission's request for comments in Public Notice DA 18-493.¹ I am not commenting on the definition of ATDS or on reassigned numbers. I am commenting on revocation of prior express consent and the interpretation of the word "persons".

How a called party may revoke prior express consent to receive robocalls.

I do not believe that a caller should be allowed to unilaterally prescribe the exclusive means for consumers to revoke their consent.

If a called party had not placed their phone number on the Commission's do-not-call lists, adding the party's phone number to the list should be considered revocation of consent to receive calls. In addition, if the caller provides the option to press a specific key to be removed or to not receive calls, that action should constitute a revocation of consent to be called. If the called party says, to a recorder or to a live person, "don't call again", "stop calling", "I don't want to be called", or any other words to that effect, such action should be considered a revocation of consent to receive calls. In ACA the court upheld the commissions approach "through any reasonable means clearly expressing a desire to receive no further messages from the caller."² The Commission should continue its interpretation made in its 2015 Declaratory Ruling³.

For text message a reply of the word "STOP" should be sufficient to revoke consent to send the messages.

Reconsideration of the interpretation of "person"

The Commission seeks comment⁴ on whether federal government contractors, regardless of their status as common-law agents, are "persons" under the TCPA⁵.

I agree with the position taken by the National Consumer Law Center in its petition⁶ that federal government contractors are persons under the TCPA. The text of that law makes clear that government contractors are subject to the law's prohibitions. Congress has defined the term

¹ See Consumer and Governmental Affairs Bureau Seeks Comment on Interpretation of the Telephone Consumer Protection Act in Light of D.C. Circuit's ACA International Decision, CG Docket Nos. 18-152 and 02-278, Public Notice DA 18-493 (rel. May 14, 2018) ("TCPA Public Notice").

See also ACA Int'l. v. FCC, No. 15-1211, 885 F.3d 687 (D.C. Cir. 2018). ("ACA", page numbers refer to the slip opinion)

² ACA at 5

³ 2015 Declaratory Ruling, 30 FCC Rcd. at 7989-90 ¶ 47

⁴ TCPA Public Notice at 4.

⁵ The Telephone Consumer Protection Act, 47 U.S.C. § 227.

⁶ Petition of National Consumer Law Center et al. for Reconsideration of Declaratory Ruling and Request for Stay Pending Reconsideration, CG Docket No. 02-278 (filed July 26, 2016) at 2

“person,” as used in the TCPA, to include, “unless the context otherwise requires,” an “individual, partnership, association, joint-stock company, trust, or corporation.”⁷

Conclusion

I thank the Commission for the opportunity to comment. I request the Commission to clarify that a called party may revoke consent to be called by any reasonable means and that the term “persons” applies to federal government contractors.

Respectfully submitted,

/s/

John A. Shaw

⁷ 47 U.S.C. § 153(39).